
North Coast Regional Water Quality Control Board

June 1, 2017

Jennifer Nielsen
143 Fair Oaks Street
San Francisco, CA. 94110

Dear Ms. Nielsen:

Subject: **Notice of Violation** of 13267/Cleanup and Abatement Order R1-2015-0048 (CAO)

File: Nielsen, Jennifer, 143 Fair Oaks St., San Francisco: Humboldt County
WDID No. 1B14099CNHU

The purpose of this letter is to notify you that you are in violation of the above-referenced CAO. The CAO required completion of all restoration work by October 15, 2015. The late submittal of your restoration and monitoring plan and delayed applications for required permits contributed to your failure to complete the required scope of work within the time required by the CAO.

In your December 1, 2015 progress report, your consultant informed us you were behind on permitting and expected to receive a grading permit from Humboldt County by January 1, 2016.

On June 29, 2016, my staff contacted your consultants at Pacific Watershed and Associates (PWA) via telephone and inquired as to the status of activities required to remedy the violations on your property. PWA informed us that you have received the required permits and that you would be having your tenant, Joel Mabe, address cleanup and abate requirements. We have not heard from your tenant and have subsequently been told by PWA that your tenant had not contacted them to discuss completion of the approved Restoration Mitigation and Monitoring Plan (RMMP).

From Parcel Quest we know that you sold the property (Humboldt County APN 210-141-011-000) to Polly Kinsinger on or about December 9, 2016. Sale of the property does not abrogate you from responsibility for compliance with the CAO, nor does it shield you from potential liability for your failure to comply with the CAO.

On April 24, 2017, PWA informed us that the dam installed illegally on your property failed during the 2016 and 2017-winter period. The failure of the unauthorized dam constitutes a discharge of waste in violation of the California Water Code. PWA also stated that they had been contacted by Polly Kinsinger to complete the Cleanup required.

In addition, Ms. Kinsinger contacted us on May 11, 2017, and informed us that she was the now the owner of record, and is working with Todd Kraemer of PWA to complete the Cleanup requirements.

The CAO Directives required completion of all cleanup related work by October 15, 2016, and progress reports were due the first of each month until the completion of the required cleanup work. We have not received a progress report since December 1 of 2015. We approved a RMMP that we received on August 19, 2015, on September 3, 2015. It has been over a year since the RMMP was approved and the plan has not been implemented. Accordingly, this letter serves as notice to you that you are in violation of the CAO and could be subject to formal enforcement and subject to substantial liability.

Violations of the CAO could subject you to penalties of up to \$5,000 per day under section 13350 for each violation and for each day of violation. In the event that the violations results in a discharge, such as the failure of the dam that occurred after the date that restoration was to be completed under the CAO, you may be fined up to \$10,000 per day and \$10 per gallon for each day of discharge under section 13385 of the California Water Code.

The Regional Board retains full authority and discretion to bring enforcement for past and ongoing violations of the CAO. In exercising its enforcement discretion, the Regional Water Board will consider any on going good-faith attempts to comply with the CAO. Accordingly, we recommend that you submit a detailed schedule of what actions will be taken, when and by whom in order to obtain compliance with the CAO. We are requesting that this detailed schedule be provided to us no later than COB on June 30, 2017.

It is important to note that the CAO directives do not supersede any other state agency or local agency regulatory or permit requirements, and are not intended to conflict with such, either. You may find additional work is necessary to satisfy all respective regulatory and permit requirements that apply to the restoration and development work associated with this property and the violations identified. These additional permit requirements include an Army Corps of Engineers Clean Water Act section 404 permit and a section 401 state water quality certification. Prior to implementing the approve RMMP, you will need to secure any necessary permits for other regulatory entities.

If you have any questions, please contact Stormer Feiler of my staff by email at Stormer.Feiler@waterboards.ca.gov, or by phone at (707) 543-7128.

Sincerely,

Joshua Curtis
Division Chief
Planning, Stewardship, and Compliance Assurance Division

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Certified-Return Receipt Requested

cc: Polly Kinsinger
P.O. Box 761
Fortuna, CA. 95540

Pacific Watershed and Associates
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